



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:)
)
Bradley T. Estes et al.) Before the Examiner
)
Serial No. 10/650,494)
)
Filed: August 28, 2003) Art Unit
)
LATERALLY EXPANDING)
INTERVERTEBRAL FUSION DEVICE)

INFORMATION DISCLOSURE STATEMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Pursuant to the duty of disclosure embodied in 37 C.F.R. § 1.56, Applicants wish to bring to the attention of the Examiner the items of information listed on the enclosed Information Disclosure Citation form. Copies of the items listed in this IDS form are not being provided herewith pursuant to 37 C.F.R. § 1.98(d) since they were previously cited by the Examiner or submitted and considered in prior Patent Application Serial No. 09/696,715 filed October 25, 2000 (now US Patent No. 6,613,089 issued September 2, 2003) which is being relied upon for an earlier effective filing date under 35 USC § 120.

The filing of this Information Disclosure Statement (IDS) shall not be construed as an admission that the information cited is or is considered to be prior art or material to patentability as defined in § 1.56(b).

I hereby certify that this correspondence is being deposited with the United States Postal Service as **first class mail** in an envelope addressed to the Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450.

December 24, 2003

(Date of Deposit)

James B. Myers, Jr.

Name of Registered Representative

James B. Myers Jr

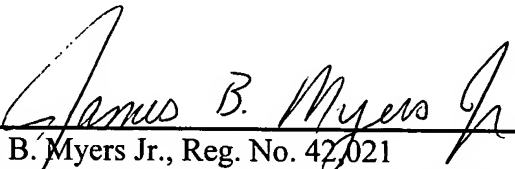
Signature

December 24, 2003

Date of Signature

DE This Statement is being submitted under 37 CFR 1.97(b) before the occurrence of one or more of the following: (a) receipt of a First Office Action on the merits, (b) passage of three (3) months from the application filing date, or passage of three (3) months from the date entry of the national stage. Accordingly, it is believed that no fee is due. However, should any fee be required, please charge such fee to Deposit Account No. 23-3030, but not to include any payment of issue fees.

Respectfully submitted,

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Substitute for form 1449A/PTO

INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(use as many sheets as necessary)

Complete if Known

Application Number	10/650,494
Filing Date	August 28, 2003
First Named Inventor	ESTES
Group Art Unit	
Examiner Name	
Attorney Docket No.	4002-3385

Sheet 1 of 2

U.S. PATENT DOCUMENTS

Examiner Initials*	Cite No. ¹	Document Number	Publication Date MM-DD-YYYY	Name of Patentee or Application of Cited Document	Pages, Columns, Lines where Relevant Passages or Relevant Figures Appear
		Number-Kind Code ² (if known)			
	1	4,512,038	04-1985	Alexander et al.	
	2	4,645,503	02-1987	Lin et al.	
	3	4,945,127	07-1990	Kagawa et al.	
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	5	5,145,935	09-1992	Hayashi	
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Examiner Signature

Date Considered

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹ Applicant's unique citation designation number (optional). ² See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. ³ Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). ⁴ For Japanese patent documents, the indication of the year of the reign of the emperor must precede the serial number of the patent document. ⁵ Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. ⁶ Applicant is to place a check mark here if English language Translation is attached.

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Group Art Unit	
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Attorney Docket No.	4002-3385

Sheet	2	of	2
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34	6,127,597	10-2000	Beyar et al.
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Examiner Initials*	Cite No. ¹	Foreign Patent Document Country Code ² -Number ³ -Kind Code ⁴ (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Application of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T ⁵
	45	EP 0326426	08-1989			
	46	EP 1000958	05-2001			
	47	FR 2712486	05-1995			
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	50	WO 98/38918	09-1998			
	51	WO 00/44319	08-2000			
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OTHER PRIOR ART - NON PATENT LITERATURE DOCUMENTS

Examiner Initials*	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s) publisher city and/or country where published	T ²
	54	Blanchard, C. R., "Biomaterials: Body Parts of the Future," Technology Today, Fall 1995	
	55	Middleton, J. C., Tipton, A. J., "Synthetic Biodegradable Polymers as Medical Devices," Medical Plastics and Biomaterials Magazine, Mar. 1998	

Examiner Signature		Date Considered	
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